

EXHIBIT 11

Reller v. Philip Morris—Special Verdict—Page 1 of 16

AMENDED *U. Clancy*
7/31/03
SPECIAL VERDICT NO. 1
[DESIGN DEFECT]

FILED
LOS ANGELES SUPERIOR COURT

JUL 31 2003

JOHN A. CLARKE, CLERK

[Signature]
BY E. SABALBURTO, DEPUTY

We, the jury in the above-entitled action, find the following Special Verdict on the questions submitted to us:

Question No. 1

Was there a defect in design?

YES NO

Answer: 2 10

If you answered "NO" to Question No. 1, then date and sign this verdict, and proceed to Special Verdict No. 2—Failure to Warn. If you answered "YES," then answer the next question.

Question No. 2

Did the defect exist when the product left the possession of the defendant?

YES NO

Answer: 2 _____

If you answered "NO" to Question No. 2, then date and sign this verdict, and proceed to Special Verdict No. 2—Failure to Warn. If you answered "YES," then answer the next question.

Question No. 3

Was the defect a cause of injury to plaintiff?

YES NO

Answer: 2 _____

If you answered "NO" to Question No. 3, then date and sign this verdict, and proceed to Special Verdict No. 2—Failure to Warn. If you answered "YES," then answer the next question.

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Question No. 4

Was plaintiff's injury caused by a use of the product that was reasonably foreseeable by the defendant?

YES

NO

Answer:

2

Date and sign this verdict and proceed to Special Verdict No. 2—
Failure to Warn.

Date:

7/31/03

Foreperson:

H. W. Ryz

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SPECIAL VERDICT NO. 2
[FAILURE TO WARN]

We, the jury in the above-entitled action, find the following Special Verdict on the questions submitted to us:

Question No. 1

Was there a defect resulting from a failure to warn occurring after January 1964, when plaintiff switched to defendant's product, and before July 1, 1969?

YES NO

Answer:

0 12

If you answered "NO" to Question No. 1, then date and sign this verdict, and proceed to Special Verdict No. 3—Negligent Design. If you answered "YES," then answer the next question.

Question No. 2

Did the defect exist when the product left the possession of the defendant?

YES NO

Answer:

If you answered "NO" to Question No. 2, then date and sign this verdict, and proceed to Special Verdict No. 3—Negligent Design. If you answered "YES," then answer the next question.

Question No. 3

Was the defect a cause of injury to plaintiff?

YES NO

Answer:

If you answered "NO" to Question No. 3, then date and sign this verdict, and proceed to Special Verdict No. 3—Negligent Design. If you answered "YES," then answer the next question.

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Question No. 4

Was the plaintiff's injury caused by a use of the product that was reasonably foreseeable by the defendant?

YES

NO

Answer: _____

Date and sign this verdict and proceed to Special Verdict No. 3—
Negligent Design.

Date: 7/31/03

Foreperson: A. W. Rupp

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SPECIAL VERDICT NO. 3
[NEGLIGENT DESIGN]

We, the jury in the above-entitled action, find the following Special Verdict on the questions submitted to us:

Question No. 1

Was the defendant negligent?

YES NO

Answer: 2 10

If you answered "NO" to Question No. 1, then date and sign this verdict, and proceed to Special Verdict No. 4—Intentional Misrepresentation. If you answered "YES," then answer the next question.

Question No. 2

Was the negligence of the defendant a cause of injury or damage to plaintiff?

YES NO

Answer: 2

Date and sign this verdict and proceed to Special Verdict No. 4—Intentional Misrepresentation.

Date: 7/31/03

Foreperson: H. W. Rupp

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SPECIAL VERDICT NO. 4
[INTENTIONAL MISREPRESENTATION]

We, the jury in the above-entitled action, find the following Special Verdict on the questions submitted to us:

Question No. 1

Did defendant make a representation as to a past or existing material fact?

YES NO

Answer:

12 0

If you answered "NO" to Question No. 1, then date and sign this verdict, and proceed to Special Verdict No. 5—Concealment. If you answered "YES," then answer the next question.

Question No. 2

Was the representation false?

YES NO

Answer:

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If you answered "NO" to Question No. 2, then date and sign this verdict, and proceed to Special Verdict No. 5—Concealment. If you answered "YES," then answer the next question.

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Question No. 3a

Did defendant know that the representation was false when it made it?

YES NO

Answer:

1

Question No. 3b

Did defendant make the representation recklessly without knowing whether it was true or false?

YES NO

Answer:

 1

If you answered "NO" to Question Nos. 3a and 3b, then date and sign this verdict, and proceed to Special Verdict No. 5—Concealment. If you answered "YES," to Question No. 3a or Question No. 3b, then answer the next question.

Question No. 4

Did defendant make the representation with an intent to defraud plaintiff?

YES NO

Answer:

1

If you answered "NO" to Question No. 4, then date and sign this verdict, and proceed to Special Verdict No. 5—Concealment. If you answered "YES," then answer the next question.

Question No. 5

Was plaintiff aware of the falsity of the representation?

YES NO

Answer:

 1

If you answered "YES" to Question No. 5, then date and sign this verdict, and proceed to Special Verdict No. 5—Concealment. If you answered "NO," then answer the next question.

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Question No. 6

Did plaintiff act in reliance upon the truth of the representation?

YES NO

Answer:

1

If you answered "NO" to Question No. 6, then date and sign this verdict, then proceed to Special Verdict No. 5—Concealment. If you answered "YES," then answer the next question.

Question No. 7

Was plaintiff justified in relying upon the representation?

YES NO

Answer:

1

If you answered "NO" to Question No. 7, then date and sign this verdict, and proceed to Special Verdict No. 5—Concealment. If you answered "YES," then answer the next question.

Question No. 8

Was plaintiff injured or damaged as a result of his reliance upon the truth of the representation?

YES NO

Answer:

1

Date and sign this verdict and proceed to Special Verdict No. 5—Concealment.

Date: 7/31/'03

Foreperson: H. W. Rupp

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SPECIAL VERDICT NO. 6
[NEGLIGENT MISREPRESENTATION]

We, the jury in the above-entitled action, find the following Special Verdict on the questions submitted to us:

Question No. 1

Did the defendant make a representation as to a past or existing material fact?

YES NO

Answer:

12 0

If you answered "NO" to Question No. 1, then date and sign this verdict, and proceed to Special Verdict No. 7—Medical Causation. If you answered "yes," then answer the next question.

Question No. 2

Was the representation untrue?

YES NO

Answer:

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If you answered "NO" to Question No. 2, then date and sign this verdict, and proceed to Special Verdict No. 7—Medical Causation. If you answered "YES," then answer the next question.

Question No. 3

Regardless of defendant's actual belief, did defendant make the representation without any reasonable ground for believing it to be true?

YES NO

Answer:

1

If you answered "NO" to Question No. 3, then date and sign this verdict, and proceed to Special Verdict No. 7—Medical Causation. If you answered "YES," then answer the next question.

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Question No. 4

Was the representation by defendant made with the intent to induce plaintiff to rely upon it?

YES NO

Answer:

1

If you answered "NO" to Question No. 4, then date and sign this verdict, and proceed to Special Verdict No. 7—Medical Causation. If you answered "YES," then answer the next question.

Question No. 5

Was plaintiff aware of the falsity of the representation?

YES NO

Answer:

1

If you answered "YES" to Question No. 5, then date and sign this verdict, and proceed to Special Verdict No. 7—Medical Causation. If you answered "NO," then answer the next question.

Question No. 6

Did plaintiff act in reliance upon the truth of the representation?

YES NO

Answer:

1

If you answered "NO" to Question No. 6, then date and sign this verdict, and proceed to Special Verdict No. 7—Medical Causation. If you answered "YES," then answer the next question.

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Question No. 7

Was plaintiff justified in relying upon the representation?

YES NO

Answer:

1

If you answered "NO" to Question No. 7, then date and sign this verdict, and proceed to Special Verdict No. 7—Medical Causation. If you answered "YES," then answer the next question.

Question No. 8

Was plaintiff injured or damaged as a result of his reliance upon the truth of the representation?

YES NO

Answer:

1

Date and sign this verdict and proceed to Special Verdict No. 7—Medical Causation.

Date: 7/31/03

Foreperson: H. W. Rupp

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SPECIAL VERDICT NO. 7
[MEDICAL CAUSATION]

We, the jury in the above-entitled action, find the following Special Verdict on the questions submitted to us:

Question No. 1

Was plaintiff's smoking of cigarettes a substantial factor in bringing about his injury?

YES

NO

Answer:

12

0

If you answered "NO" to Question No. 1, then date and sign this verdict, and do not go further. If you answered "YES," then proceed to Special Verdict No. 8—Damages.

7/31/03

H. W. Ruppel

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**SPECIAL VERDICT NO. 8
[DAMAGES]**

Answer Special Verdict No. 8 if, but only if, you have answered “YES” to Special Verdict No. 7 and “YES” to one or more of the previous questions listed immediately below:

Question No. 4 in Special Verdict No. 1

Question No. 4 in Special Verdict No. 2

Question No. 2 in Special Verdict No. 3

Question No. 8 in Special Verdict No. 4

Question No. 5 in Special Verdict No. 5

Question No. 8 in Special Verdict No. 6

If you have not answered “YES” to Special Verdict No. 7 and one or more of the previous questions listed immediately above, do not consider either this Special Verdict No. 8 or Special Verdict No. 9—Fraud, Malice or Oppression, and return the verdicts which you have signed.

Question No. 1

What do you find to be the total amount of damages, including economic and non-economic damages, if any, suffered by plaintiff and caused by the wrongful conduct upon which you base your findings of liability?

Answer: (a) Economic Damages: \$ _____

(b) Non-Economic Damages: \$ _____

TOTAL: \$ _____

If you answered Question No. 1 “NO DAMAGE,” date and sign this verdict, do not consider Special Verdict No. 9—Fraud, Malice or Oppression, and return the verdicts which you have signed.

If you answered Question No. 1 with a dollar amount, then date and sign this verdict, and proceed to Special Verdict No. 9—Fraud, Malice or Oppression.

Date: _____

Foreperson: _____

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SPECIAL VERDICT NO. 5
[CONCEALMENT]

We, the jury in the above-entitled action, find the following Special Verdict on the questions submitted to us:

Question No. 1 *AFTER JANUARY, 1964 WHEN MR. RELLER BEGAN SMOKING PHILIP MORRIS*
PRODUCED BEFORE JULY 1, 1963, did defendant conceal or suppress a material
fact?

YES NO

U. Cheney
7/21/02

Answer: _____

If you answered "NO" to Question No. 1, then date and sign this verdict, and proceed to Special Verdict No. 6—Negligent Misrepresentation. If you answered "YES," then answer the next question.

Question No. 2

Did defendant intentionally conceal or suppress the fact with the intent to defraud plaintiff?

YES NO

Answer: _____

If you answered "NO" to Question No. 2, then date and sign this verdict, and proceed to Special Verdict No. 6—Negligent Misrepresentation. If you answered "YES," then answer the next question.

Question No. 3

Was plaintiff aware of the fact at the time he acted?

YES NO

Answer: _____

If you answered "YES" to Question No. 3, then date and sign this verdict, and proceed to Special Verdict No. 6—Negligent Misrepresentation. If you answered "NO," then answer the next question.

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Question No. 4

Would plaintiff have acted as he did if he had known of the concealed or suppressed fact?

YES NO

Answer: _____

If you answered "YES" to Question No. 4, then date and sign this verdict, and proceed to Special Verdict No. 6—Negligent Misrepresentation. If you answered "NO," then answer the next question.

Question No. 5

Was plaintiff injured or damaged as a result of the defendant's concealment or suppression of the fact?

YES NO

Answer: _____

Date and sign this verdict form and proceed to Special Verdict No. 6—Negligent Misrepresentation.

Date: _____

Foreperson: _____

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SPECIAL VERDICT NO. 9
[FRAUD, MALICE OR OPPRESSION]

Question No. 1

Do you find by clear and convincing evidence that defendant was guilty of oppression, malice, or fraud in the conduct on which you base your finding of liability:

YES

NO

Answer:

Date and sign this verdict.

Date: _____

Foreperson: _____

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